

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

DONNELL CARMICHAEL
Plaintiff

*

* CIVIL ACTION NO. PJM-09-3444

Vs.

*

OFFICER BAH,
Defendant

*

MEMORANDUM OPINION

On December 23, 2009, Plaintiff, an inmate presently incarcerated at the Jessup Correctional Institution, filed the instant *pro se* action pursuant to 42 U.S.C. Section 1983, asking that Defendant be removed from his job as a correctional officer and stating that Defendant spit on Plaintiff. Paper No. 1. Plaintiff has moved for leave to proceed in forma pauperis. The motion shall be granted pursuant to 28 U.S.C. Section 1915(a).

Plaintiff seeks injunctive relief. As a preliminary injunction temporarily affords an extraordinary remedy prior to trial, the party seeking the preliminary injunction must demonstrate: (1) by a “clear showing” that he is likely to success on the merits at trial; (2) he is likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in his favor; and (4) an injunction is in the public interest. *See Winter v. Natural Resources Defense Council, Inc.*, --- U.S. ---, 129 S.Ct. 365, 374-376 (2008). While Bah’s action is despicable, it does not amount to a rights violation of constitutional dimension. *See generally Allen v. Wright*, 468 U.S. 737, 751 (1984). “[N]ot all undesirable behavior by state actors is unconstitutional.” *Pink v. Lester*, 52 F.3d 73, 75 (1995).

Accordingly his claim will be dismissed in a separate Order.

January 6, 2010

/s/
PETER J. MESSITTE
UNITED STATES DISTRICT JUDGE